

CITY COMMISSION MEETING AGENDA

CITY COMMISSION / MUNICIPAL COURT ROOM
518 MECHANIC, EMPORIA, KS
July 6, 2016 at 1:30 pm

1. Members present: Mayor Gilligan

| | |
|---------------------------------|---------------------------------|
| <u>Vice Mayor Mlynar</u> | <u>Commissioner Geitz</u> |
| <u>Commissioner Harmon</u> | <u>Commissioner Giefer</u> |
| <u>City Manager McAnarney</u> | <u>City Clerk Sull</u> |
| <u>Asst. City Mgr. Jim Witt</u> | <u>City Attorney Montgomery</u> |
2. Consent Agenda
3. Public Comment
4. Consider Agreement for Private Sanitary Sewer Line within 30th Ave. & Bayfront Drive.
5. Award Bid for Purchase & Installation of Ozone Equipment.
6. Ordinance and Final Platt for Hidden Vistas.
7. Ordinances for Beer Gardens
 - a. Professional Disc Golf Association World Block Party.
 - b. Lunar Kanza Block Party.
8. Legislative Ordinance Updates.
9. Report from City Manager on City Activities.
10. City Commission Reports and Comments.



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 2

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items. Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Commission Meeting held on June 15, 2016.
- b. Consider ratification of Payroll Ordinance for the period ending on June 24, 2016.
- c. Consider Set Bid Time and Date to Receive RFQ's for Comprehensive Plan.
- d. Consider Set Bid Time and Date for New Recycling Baler.
- e. Consider Set Bid Time and Date for New Solid Waste Packer and Chassis.
- f. Change Order for 30th Ave Sidewalk Project.

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Set Bid Time and Date
- d. Approve Set Bid Time and Date
- e. Approve Set Bid Time and Date
- f. Approve Change Order

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 2c

SUBJECT: Set 2:00 p.m. July 22, 2016, as the time and date to receive RFQ's in community development, land use planning, long range planning, GIS mapping, economic analysis, and citizen outreach to provide professional planning services to the City/County.

RECOMMENDATION: Set the time and date.

BACKGROUND SUMMARY:

OBJECTIVE

The City of Emporia and Lyon County, Kansas are requesting qualifications from consulting firms with experience in community development, land use planning, long range planning, GIS mapping, economic analysis, and citizen outreach to provide professional planning services to the City/County for the creation of the Joint Comprehensive Plan. The City/County is seeking a consulting team to create the contents of the Joint Comprehensive Plan. The contract will be administered by the City/County Planning Departments who will advise and assist the Planning Commission, City Council, Board of County Commissioners, and stakeholders. The Joint Comprehensive Plan creation is a collaborative process involving the governing body, City/County staff, the consultant team, and the community. This plan will serve as a framework for the future of Emporia/Lyon County and provide guidance in the day-to-day decision-making of the City/County.

PROPOSAL REQUIREMENTS

Proposals are due by July 22, 2016 at 2:00 p.m.

For a complete list of requirements contact:

Joseph Foster, Planning and Zoning Dept. City of Emporia 104 E. 5th Ave. Emporia, KS 66801 Samuel Seeley, Director of Planning/Zoning/FPM Lyon County 430 Commercial Street Emporia, KS 66801
Phone: (620) 343-4268 Phone: (620) 341-3471
Email: jfoster@emporia-kansas.gov

Email: sseeley@lyoncounty.org

Submit eight (8) copies of the RFQ to:

City of Emporia
Attn: Tim Frevert, Purchasing Officer
522 Mechanic Street
Emporia, KS 66801
Phone (620) 343-4253
Email: Purchasing@Emporia-Kansas.Gov

ACTION RECORD

Action: _____

Motion: _____ Second: _____
Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 2d

SUBJECT: Set 2:00 p.m. July 21, 2016, as the time and date to receive bids for one new recycling baler.

RECOMMENDATION: Set the time and date.

BACKGROUND SUMMARY:

The City will be replacing a Horizontal Baler with conveyor. The trade - in will consist of a 2005 International brand, model LD-60SD horizontal baler and conveyor.

There is \$93,000.00 budgeted for this replacement purchase.

Following is a proposed timetable for this project:

| | |
|------------------------------|----------------------|
| Commission to set bid date | July 6 th |
| Bids will be sent to Vendors | June 27 |
| Pre bid Conference | July 14 |
| Receive bids | July 21 |
| Commission to consider bids | August 3 |

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 2e

SUBJECT: Set 2:00 p.m. July 20, 2016, as the time and date to receive bids for one new solid waste packer body and chassis.

RECOMMENDATION: Set the time and date.

BACKGROUND SUMMARY:

The City will be replacing a rear-load packer body and low entry chassis. Bids are expected to be well under the budgeted amount due to current lower fuel and iron prices. The trade in will be a 2005 model LET2-26 Crane Carrier Chassis outfitted with a 2005 Heil 20 cubic yard model PT 1000 rear-load packer body.

There is \$226,000.00 budgeted for this replacement purchase.

Following is a proposed timetable for this project:

| | |
|------------------------------|----------------------|
| Commission to set bid date | July 6 th |
| Bids will be sent to Vendors | June 23 |
| Pre bid Conference | July 12 |
| Receive bids | July 20 |
| Commission to consider bids | August |

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 2f

SUBJECT: Consider Change Order No. 1 for the 2016 30th Avenue Sidewalk Improvements Project.

RECOMMENDATION: Approve Change Order No. 1 for the 2016 30th Avenue Sidewalk Improvements Project adding \$3,927.25 to the project.

BACKGROUND SUMMARY:

Listed below are the change order quantities for the 2016 30th Avenue Sidewalk Improvements Project. The original bid amount was \$92,001.30. This Change Order for \$3,927.25 would increase the final dollar amount to \$95,928.55. This project was funded from the Multi-Year Fund.

Quantities Deleted:

1. End Section (12" HDPE) – One of the End Sections was eliminated when it was decided to add a 12" HDPE pipe to connect the Crestview pond overflow pipe to the pipe going under the sidewalk. This is a reduction in the cost of \$75.00.
2. Temporary Slope Barrier (Silt Fence) – The linear footage of silt fence used on the project was underrun by 160 LF, a reduction of \$800.00 in project cost.
3. Sediment Removal (Set Price) – This item was not needed on the project and represents a reduction of \$35.00.

The total amount deleted from the project is \$910.00

Quantities Added:

1. Compaction of Earthwork (Contractor Borrow) – An additional 18 CY of soil was used for backfill and grading around the pipe added to the project, for an increase of \$306.00.
2. Combined Material (AB-3)(4" Compacted) – The driveway construction required 3.5 SY in additional square footage of concrete, which required corresponding square footage of combined material for an increase of \$87.50.
3. Curb & Gutter (Remove & Replace) – The Curb & Gutter required to provide the sidewalk transition was increased by 2 LF for an increase of \$300.00.
4. Concrete Pavement (6" Plain)(AE) – Concrete Pavement for the driveway required an additional 3.5 SY of concrete for an increase of \$168.00.
5. Added 12" HDPE Pipe (Pond Outlet) – A 12" HDPE pipe to connect the Crestview pond overflow pipe to the pipe going under the sidewalk was added at a cost of \$650.00.

ACTION RECORD

Action: _____

Motion: _____ Second: _____
Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

- 6. Contractor Borrow Soil for Ditch Grading – The property owners on both sides of Bayfront Court at 30th Avenue requested that the ditch between the new sidewalk and 30th Avenue be graded to allow easier mowing. This required bringing in 55 CY of soil for an increase of \$1,135.75.
- 7. Erosion Control Blanket – In order to help prevent erosion of the new soil placed in the ditch, an erosion control blanket was placed and pinned down to hold the soil, which is an increase of \$1,440.00.
- 8. Additional Seeding – This item was added to allow for the additional seeding required for the ditch on either side of Bayfront Court and for the area around the new pipe installed near the pond outlet; an increase of \$750.00.

The total amount added to the project is \$4,837.25

The total amount of the Change Order represents an increase of \$3,927.25.

| | |
|--------------------------|--------------------|
| Original contract amount | \$ 92,001.30 |
| Less: Change Amount | <u>\$ 3,927.25</u> |
| Revised contract amount | \$ 95,928.55 |

ACTION RECORD

Action: _____

Motion: _____ Second: _____
Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

**CHANGE IN PLANS NO. 1
ON CONTRACT WITH BURINGTON CONSTRUCTION, INC.
FOR THE CONSTRUCTION OF THE 30TH AVE SIDEWALK IMPROVEMENTS PROJECT**

Date: June 21, 2016

This change in plans, made in accordance with the provisions of Paragraph 9, GS-4, General Conditions under the above Contract, provides for a change in the contract total due to estimated quantities being different than the actual quantities used in the construction of the 30th Ave Sidewalk Improvements Project No. SK1501

| <u>QUANTITY</u> | <u>UNIT</u> | <u>ITEM & UNIT PRICE IN WORDS</u> | <u>UNIT PRICE IN FIGURES</u> | <u>TOTAL AMOUNT</u> |
|--------------------------|-------------|---|----------------------------------|-------------------------|
| QUANTITIES ADDED: | | | | |
| 18 | C.Y. | Compaction of Earthwork (Contractor Borrow) @ Seventeen dollars <hr/> (Unit Price in Words) | \$17.00 | \$306.00 |
| 3.5 | C.Y. | Combined Material (AB-3) (4" Compacted) @ Twenty-five dollars <hr/> (Unit Price in Words) | \$25.00 | \$87.50 |
| 2 | L.F. | Curb & Gutter @ One hundred fifty dollars <hr/> (Unit Price in Words) | \$150.00 | \$300.00 |
| 3.5 | S.Y. | Concrete Pavement (6" Plain) (AE) @ Forty-eight dollars <hr/> (Unit Price in Words) | \$48.00 | \$168.00 |
| 1 | L.S. | 12" HDPE Pipe (Pond Outlet) @ Six hundred fifty dollars <hr/> (Unit Price in Words) | \$650.00 | \$650.00 |
| 55 | C.Y. | Contractor Borrow Soil-Dirt Grading @ Twenty dollars and sixty-five cents <hr/> (Unit Price in Words) | \$20.65 | \$1,135.75 |
| 1 | L.S. | Erosion control Blanket @ One thousand four hundred forty-four dollars <hr/> (Unit Price in Words) | \$1,440.00 | \$1,440.00 |
| 1 | L.S. | Additional Seeding @ Seven hundred fifty dollars <hr/> (Unit Price in Words) | \$750.00 | \$750.00 |
| Total Added: | | | | \$4,837.25 |

QUANTITIES DELETED:

| | | | | |
|-----|------|---|-----------------------|------------------------|
| 1 | Ea. | End Section (12" HDPE) @ Seventy-five dollars <hr/> (Unit Price in Words) | \$75.00 | \$75.00 |
| 160 | L.F. | Temporary Slope Barrier (Silt Fence) @ Sixty-four dollars <hr/> (Unit Price in Words) | \$5.00 | \$800.00 |
| 1 | C.Y. | Sediment Removal @ Thirty-five dollars <hr/> (Unit Price in Words) | \$35.00 | \$35.00 |
| | | | Total Deleted: | <u>\$910.00</u> |

TOTAL ADDED TO THE PROJECT:

\$3,927.25

CONTRACTOR: Burlington Construction, Inc.

BY: _____

APPROVED BY: THE CITY OF EMPORIA, KS

BY: _____

Date: _____

Attest: _____

CITY CLERK

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 3

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: JULY 6, 2016

ITEM NUMBER: 4

SUBJECT: Consider a License Agreement for the placement of a private sanitary sewer line within 30th Ave. and Bayfront Drive public right-of-way.

RECOMMENDATION: Recommend Commission accept and the Mayor sign the attached agreement.

BACKGROUND SUMMARY:

The License Agreement with Tracy L. Edwards & Michelle L. Edwards is for the purpose of the installation, maintenance, and operation of a private sanitary sewer line within the public right-of-way of 30th Avenue and Bayfront Drive. Installation of the sanitary sewer line is the result of the construction of a new residence and proposed property annexation into the City limits of Emporia. Please refer to the attached map "Exhibit A" detailing the location of the right of way described within this agreement.

Attached is the proposed License Agreement and "Exhibit A" map.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

LICENSE AGREEMENT

This License Agreement made this 28 day of July, 2016 is between the City of Emporia (“City”), Kansas, a municipal corporation, and Tracy L. Edwards & Michelle L. Edwards (“Licensee”).

Background

- I. City is the owner of a tract of land situated in the City of Emporia, Lyon County, Kansas and generally described as shown on the attached Exhibit A with Easement descriptions and more commonly known as the west right-of-way of Bayfront Drive from W. 30th Avenue to a point approximately 130 feet south of the intersection of Bayfront Drive with W. 30th Avenue.
- II. City is the owner of a utility easement/right-of-way (“City Easement”) which generally runs north and south.
- III. Licensee desires to install, maintain, and operate a private sanitary sewer service line within the City Easement (“Licensed Use”).
- IV. City is willing to allow Licensed Use within City Easement upon the terms and conditions of this Agreement.

Accordingly, the parties agree as follows:

1. City grants and conveys a license to Licensee, under, upon and over a portion of City Easement as shown by the diagram attached as Exhibit A and incorporated by reference in this Agreement.
2. The license granted to Licensee is for the sole purpose of Licensed Use in the City Easement by Licensee or its agents or contractors; and for the purpose of ingress and egress by Licensee or its agents or contractors necessary for Licensed Use.

3. Licensed Use and Licensee's activities on City Easement must not unduly interfere with existing and lawful use of the public right-of-way and must not be hazardous to the traveling public.
4. After installation of the private sanitary sewer service line, Licensee shall repair, or cause to be repaired, City Easement as reasonably necessary to meet City standards applicable to the City Easement and consistent with Licensed Use.
5. Licensee shall repair or replace, at Licensee's expense, any improvements or utilities disturbed during installation of the sanitary sewer line, as nearly as practicable to the condition of the improvement or utility prior to installation of the Licensed Use.
6. Licensee shall install the private sanitary sewer service line off the city street behind the curb and gutter. Further, Licensee shall install sanitary sewer service line at least three feet from any existing utilities if possible. If existing utilities do not allow installation of service line with at least three feet of clearance, Licensee shall install the service line at a reasonable location providing as much clearance as possible with existing utilities.
7. Licensee shall enroll in the Kansas One Call System (or a successor system) and register the private sanitary sewer service line installed under this agreement with the Kansas One Call System.
8. City may terminate this Agreement at will and for any reason. City shall provide a minimum of 60 days notices to Licensee to terminate this Agreement. Licensee shall close and abandon the Licensed Use installed by Licensee on City Easement no later than 5:00 p.m. 60 days after Licensee receives notice from City and according to the regulations of the Kansas Department of Health and Environment. Licensee shall restore

City Easement as reasonably practicable to its condition immediately prior to closure and abandonment of Licensee's service line.

9. Licensee shall release City and any of its franchises from any responsibility or liability for damage to service line installed under this Agreement, except for gross negligence or willful misconduct by City or and of its franchises.
10. Licensee shall indemnify City, its officers, and employees from any liability to persons or property arising out of any gross negligence or intentional misconduct of Licensee or and of its agents or contractors in connection with Licensed Use of City Easement.
11. Licensee shall reimburse City for any real estate taxes it may incur based on the presence of Licensee's sanitary sewer service line on City Easement.
12. Licensee is solely responsible for obtaining any additional easements, licenses, right-of-ways, etc. from other property owners if required to make effective use of this license.
13. The license granted by this Agreement is a covenant running with the land so long as the license continues. Further, the parties bind and obligate themselves and their executors, administrators, successors, and assigns to the rights and obligations granted and assumed by this Agreement. Despite the previous sentence, Licensee shall not assign this license without the express written consent from City, and City shall not unreasonably withhold consent.
14. This Agreement may be filed of record with the Lyon County Register of Deeds by City, at its expense, and if so filed may be terminated by filing a copy of the written termination notice provided for in Section 8 with the Lyon County Register of Deeds.

[signature page follows]

City of Emporia, Kansas

ATTEST

By: _____
Robert F. Gilligan, Mayor

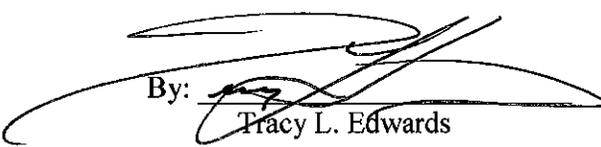
Kerry Sull, City Clerk

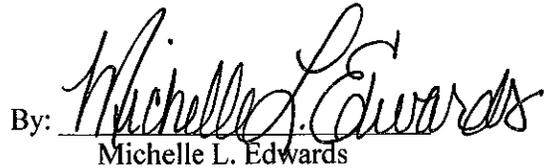
BE IT REMEMBERED, that on this ____ day of _____, A.D., 2016, before me, the undersigned, a notary public in and for the County and State aforesaid, came Robert F. Gilligan, Mayor, Emporia, Kansas, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public

Tracy L. Edwards & Michelle L. Edwards

By: 
Tracy L. Edwards

By: 
Michelle L. Edwards

BE IT REMEMBERED, that on this 28th day of June, A.D., 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Tracy & Michelle Edwards, who is personally known to me to be the same person who executed the above instrument of writing and such person duly acknowledges the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my notarial seal the day and year last above written.

Michelle O'Mara
Notary Public State of Kansas
My appt. expires 9-9-16


Notary Public



Proposed License Agreement

30TH AVENUE

BAYFRONT DRIVE

Exhibit "A"

LICENSE AGREEMENT (Edwards)

CITY OF EMPORIA, KANSAS



AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 5

SUBJECT: Ozone Equipment Installation Contract Award

RECOMMENDATION: Staff recommends contract award to Utility Contractors, Inc (UCI) in the amount of \$1,334,757.00.

BACKGROUND SUMMARY:

The Commission approved a contract with Xylem/Wedeco Solutions on July 1, 2015 to provide detailed manufacturing specification and production of specialized Ozone replacement equipment located at Water Treatment Plant. The current Ozone equipment was installed in 1995 with a 15-20-year life expectancy and is utilized as the primary disinfection method for the City's drinking water.

All manufacturing, design, and KDHE permitting requirements have been met. The project has reached the construction/installation stage. Competitive bids have been solicited and two contractors have responded with bids. The supporting information along with a summary of bids received is attached for your consideration.

Staff respectfully recommends awarding the contract for installation of Ozone Equipment to Utility Contractors, Inc. (UCI) as the most responsive and responsible bid submittal in the amount of \$1,334,775.00.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

OWNER: City of Emporia
 PROJECT: Ozone Equipment Replacement and
 Improvements
 PEC PROJECT NO: 94-14383-000-0947
 Bid Date/Time: June 30, 2018 12:00 p.m.

BID TABULATION

| ITEM NO. | DESCRIPTION | QUANTITY | UNIT | ENGINEER'S ESTIMATE | | Wildcat | | UCI | |
|----------------|---|----------|-------|---------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | | | | UNIT PRICE | COST | UNIT PRICE | COST | UNIT PRICE | COST |
| 1 | Mobilization | 1 | LS | \$ 50,000.00 | \$ 50,000.00 | \$ 180,000.00 | \$ 180,000.00 | \$ 85,000.00 | \$ 85,000.00 |
| 2 | Ozone Equipment Demolition | 1 | LS | \$ 100,000.00 | \$ 100,000.00 | \$ 88,000.00 | \$ 88,000.00 | \$ 120,000.00 | \$ 120,000.00 |
| 3 | Installation of New Ozone System | 1 | LS | \$ 1,000,000.00 | \$ 1,000,000.00 | \$ 1,556,000.00 | \$ 1,556,000.00 | \$ 1,054,000.00 | \$ 1,054,000.00 |
| 4 | Installation of Owner Leased LOX System | 1 | LS | \$ 125,000.00 | \$ 125,000.00 | \$ 76,000.00 | \$ 76,000.00 | \$ 36,000.00 | \$ 36,000.00 |
| 5 | 2" Buried Stainless Steel Pipe | 400 | LF | \$ 100.00 | \$ 40,000.00 | \$ 46.00 | \$ 18,400.00 | \$ 1.00 | \$ 400.00 |
| 6 | Contractor Basin Spills Removal | 125 | Wt CY | \$ 100.00 | \$ 12,500.00 | \$ 140.00 | \$ 17,500.00 | \$ 180.00 | \$ 22,500.00 |
| 7 | Concrete Sidewalk/Gutter | 495 | SF | \$ 20.00 | \$ 9,900.00 | \$ 13.00 | \$ 6,435.00 | \$ 23.00 | \$ 11,385.00 |
| 8 | Concrete Pavement | 90 | SF | \$ 120.00 | \$ 10,800.00 | \$ 15.00 | \$ 1,350.00 | \$ 55.00 | \$ 4,950.00 |
| 9 | Temporary and Permanent Project Seeding | 522 | SF | \$ 5.00 | \$ 2,610.00 | \$ 0.10 | \$ 52.20 | \$ 1.00 | \$ 522.00 |
| BASE BID TOTAL | | | | \$ | 1,380,810.00 | \$ | 1,823,737.20 | \$ | 1,334,757.00 |

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 6

SUBJECT:

APPLICATION 2016-11. A request of Mid-Kansas Properties, LLC, Stephen L. Sauder, to request a Final Subdivisions Plat Application, as authorized by Article 6-201 of the Subdivision Regulations at the property approximately located on 30th Ave between Hidden Lakes and Crestview Six subdivisions.

RECOMMENDATION:

At their June 28, 2016 meeting, the Planning Commission voted 7-0 to recommend approval of the application based on staff recommendation, as it will encourage housing that is consistent with surrounding properties and it is compatible with the proposed future use of the Comprehensive Plan.

BACKGROUND SUMMARY

The applicant is requesting final plat, to allow for single family homes that will be consistent with the area and the comprehensive plan. The Utility Advisory Board met May 11, 2016, and approved the plat with the shown easements and setbacks. There have been no changes made to Phase 1, since approval of the preliminary plat by the Planning Commission on May 24, 2016. This proposed project is consistent with the surrounding properties and the comprehensive plan.

ACTION:

You may 1) approve the recommendation of the Planning Commission by a majority vote; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the entire City Commission; 3) table the request; or 4) return the application to the Planning Commission, giving reasons for doing so.

ATTACHMENTS:

Planning Commission Minutes Excerpt, Map, Ordinance

Excerpt of the June 28, 2016 Planning Commission Meeting:

The Planning Commission met in regular session on Tuesday, June 28, 2016, with Chair Thomas presiding. Members Bucklinger, Fowler, Miller, Pontius, Sauder, Springeman, Wade, and Rech were present. Member Pontius was absent.

APPLICATION 2016-11. A request of Mid-Kansas Properties, LLC, Stephen L. Sauder, to request a Final Subdivisions Plat Application, as authorized by Article 6-201 of the Subdivision Regulations at the property approximately located on 30th Ave between Hidden Lakes and Crestview Six subdivisions.

Staff confirmed jurisdiction over this application.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

No ex parte communication was declared.

Member Sauder recused himself due to a conflict of interest.

Staff Report:

The applicant is requesting to subdivide the property into three platted lots. The Utility Advisory Board met May 11, 2016, and approved the plat with the shown easements and setbacks. There have been no changes made to Phase 1, since approval of the preliminary plat by the Planning Commission, on May 24, 2016. Staff recommends approval of the Final plat to subdivide the property and conform to the Subdivision Regulations. This proposed project is consistent with the surrounding properties and the comprehensive plan.

Member Bucklinger asked if the City Commission had approved the preliminary plat. Staff responded that the City Commission does not need to approve the preliminary, only the final plat.

A public hearing was not required for this application, however, the applicant provided representation if there were any questions from the board.

Member Miller moved to approve Application 2016-11, a request of a Final Subdivision Plat for property approximately located on 30th Avenue between Hidden Lakes and Crestview Six subdivisions, based upon Staff's recommendations, which he incorporates by reference. Member Fowler seconded. Motion approved 7-0.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE FINAL PLAT OF HIDDEN VISTA SUBDIVISION

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas:

Section 1. That the final plat of Hidden Vista Subdivision is hereby approved for the following legally described property:

A tract of land located in the North Half of the Northeast Quarter of Section 5, Township 19 South, Range 11 East of the 6th P.M., in the City of Emporia, Lyon County, Kansas, more particularly described as follows:

Commencing at the North Quarter Corner of said Section 5; thence along the North line of said Northeast Quarter of Section 5

N. 88°32'02" E. 385.63 feet; thence perpendicular to the North line of said Northeast Quarter of Section 5 S. 01°27'58" E. 40.00 feet to the Point of Beginning, also being the Northeast Corner of Hidden Lakes Subdivision, a subdivision in the City of Emporia, and on the South Right of Way line of 30th Avenue, a public street in the City of Emporia; thence along the South Right of Way line of said 30th Avenue, being parallel with and 40 feet South of the North line of said Northeast Quarter of Section 5

N. 88°32'02" E. 272.61 feet to the Northwest Corner of Hidden Mesas 2, a subdivision in the City of Emporia; thence along the West line of said Hidden Mesas 2 the following four courses:

1) S. 01°27'14" E. 25.08 feet

2) S. 09°35'14" E. 222.94 feet

3) S. 35°22'01" E. 68.88 feet

4) S. 20°49'43" W 124.45 feet to the Southwest Corner of said Hidden Mesas 2; thence along the South line of said Hidden Mesas 2

S. 72°01'50" E. 129.61 feet to the Southeast Corner of said Hidden Mesas 2; thence along the East line of said Hidden Mesas 2

N. 17°59'55" E. 59.93 feet; thence along the South Right of Way line of Crestview Drive, a public street in the City of Emporia

S. 72°00'56" E. 60.00 feet to the Southwest Corner of Lot 27, Crestview Lakes Sixth Addition, a subdivision in the City of Emporia; thence along the Southwesterly line of said Crestview Lakes Sixth Addition the following five courses:

1) S. 75°30'53" E. 70.09 feet

2) S. 66°05'26" E. 176.43 feet

3) S. 47°59'07" E. 150.00 feet

4) N. 53°05'29" E. 41.67 feet

5) S. 35°42'19" E. 151.18 feet to the Southerly Corner of Lot 22 of said Crestview Lakes Sixth Addition; thence along the Southwesterly Right of Way line of said Crestview Drive

S. 57°42'34" E. 64.71 feet to the Northwest Corner of Lot 21 of said Crestview Lakes Sixth Addition; thence along the Southerly line of said Crestview Lakes Sixth Addition the following four courses:

1) S. 35°42'19" E. 120.00 feet

2) N. 54°17'41" E. 78.47 feet

3) N. 88°48'17" E. 123.28 feet

4) S. 53°42'17" E. 68.38 feet to the Southerly Corner of Lot 18 of said Crestview Lakes Sixth Addition, also being the Westerly Corner of Lot 3, Crestview Lakes Fourth Addition, a subdivision in the City of Emporia; thence along the Southerly line of said Crestview Lakes Fourth Addition

S. 53°42'17" E. 275.20 feet to the South corner of said Crestview Lakes Fourth Addition, also being a point on the West line of Crestview Lakes Second Addition, a subdivision in the City of Emporia; thence along the West line of said Crestview Lakes Second Addition

S. 37°48'58" W. 228.76 feet to the Southwest Corner of said Crestview Lakes Fourth Addition, also being a point on the South line of the North Half of said Northeast Quarter of Section 5; thence along the South line of the North Half of said Northeast Quarter of Section 5, also being the North line of Grandview Addition, a subdivision in the City of Emporia

S. 88°32'09" W. 451.06 feet to the Center Corner of said Northeast Quarter of Section 5; thence continuing along the South line of the North Half of said Northeast Quarter of Section 5 S. 88°41'30" 1309.04 feet to the Southeast Corner of Lot 12 of said Hidden Lakes Subdivision, said point being N. 88°41'30" E. 10.86 feet from the West Quarter Corner of said Northeast Quarter of Section 5; thence along the East line of said Hidden Lakes Subdivision the following four courses:

- 1) N. 34°31'11" E. 382.58 feet
- 2) N. 01°39'13" W. 325.87 feet
- 3) N. 19°52'38" E. 284.29 feet
- 4) N. 07°21'15" E. 312.51 feet to the Point of Beginning, containing 26.74 acres.

Section 2. That this ordinance and the final plat of Hidden Vista Subdivision, attached hereto as Exhibit A, shall be recorded at the Lyon County Register of Deeds Office at the expense of the Owner.

Section 3. This ordinance shall become effective upon publication in the official city newspaper.

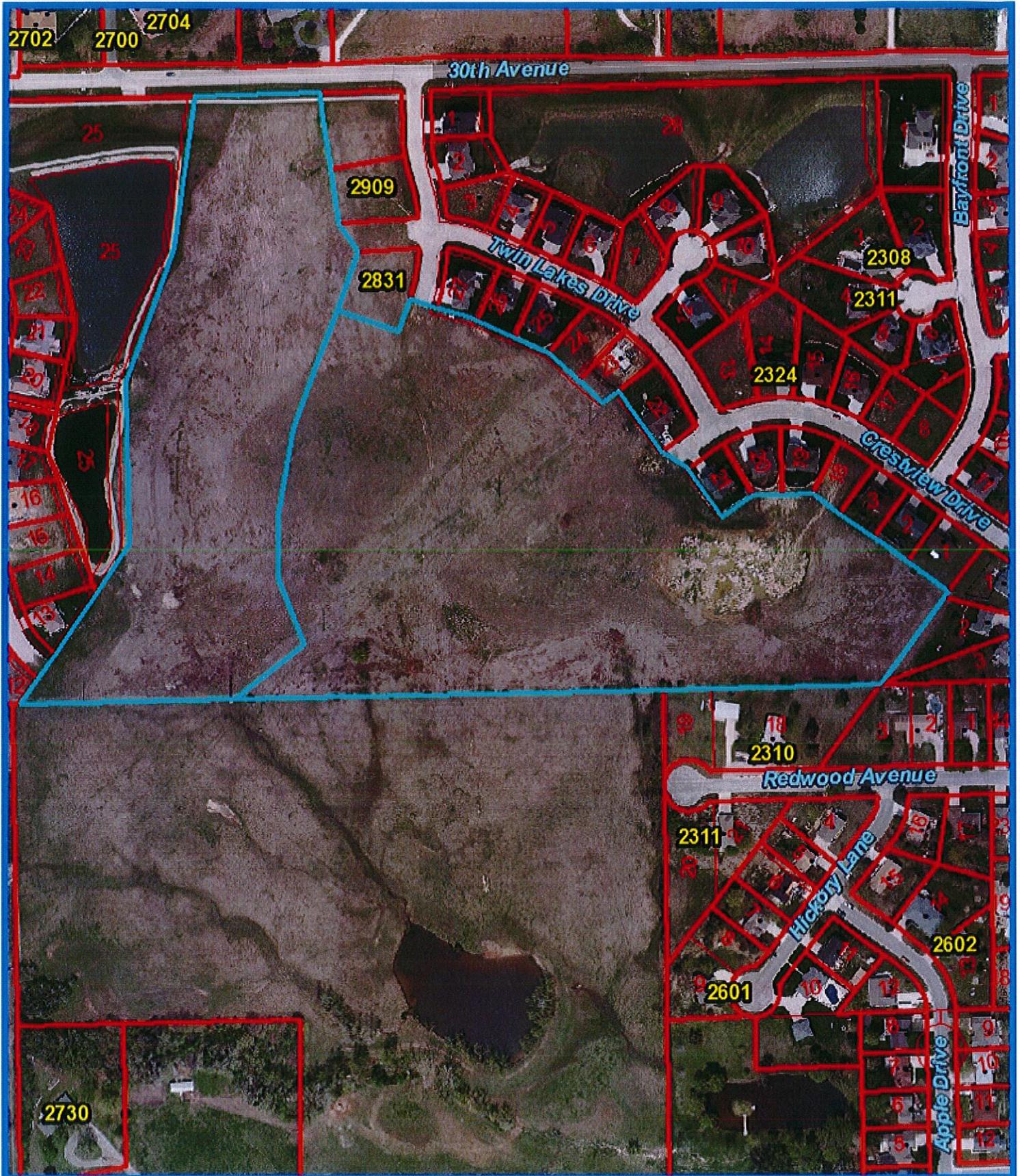
PASSED AND APPROVED this _____ day of _____, 2016.

ROBERT F. GILLIGAN, Mayor

ATTEST:

KERRY SULL, City Clerk

Hidden Vistas



DATA IS NOT
SURVEY ACCURATE

0 0.02 0.04 0.08 Miles



1" = 250'

Commitment for Title Insurance



Issued By Old Republic National Title Insurance Company

Old Republic National Title Insurance Company, a Minnesota corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in

the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six (6) months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

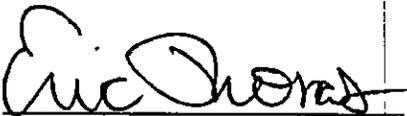
IN WITNESS WHEREOF, Old Republic National Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

Continued on back page

Issued through the Office of

**ISSUED BY:
MOON TITLE & ESCROW
421 COMMERCIAL
(620) 342-1917**

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111


Authorized Signatory

By



President

Attest



Secretary

CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.
You may review a copy of the arbitration rules at: <http://www.alta.org/>.

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 7a

SUBJECT: Ordinance to Request Beer Garden for the PDGA Block Party.

RECOMMENDATION: Mayor Sign Ordinance

BACKGROUND SUMMARY:

The Granada Theater is requesting a temporary exemption from the prohibition of the sale and consumption of alcoholic beverages for the PDGA Block Party event to be held on August 12, 2016. The requested exemption would include the 800 and southern 900 blocks of Commercial Street, from 3:00 p.m. to 12:00 midnight on that date.

The proposed ordinance includes requirements that all alcoholic beverages remain within clearly identified boundaries to be approved by the Chief of Police, that no one under the age of 21 may possess or consume alcohol, and that the Granada must meet all city and state requirements for temporary alcohol sale licensing.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING COMMERCIAL STREET INCLUDING THE 800 AND SOUTHERN 900 BLOCKS IN THE CITY OF EMPORIA FROM THE PROHIBITION ON THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE PROFESSIONAL DISC GOLF ASSOCIATION WORLD BLOCK PARTY EVENT AUGUST 12, 2016.

WHEREAS, sponsors of the Professional Disc Golf Association (PDGA) World Block Party event and the Granada Theater have requested an exemption from the prohibition of sale and consumption of cereal malt beverages (CMB) and/or alcoholic liquor on Commercial Street including the 800 and southern-900 blocks in connection with the PDGA World Block Party special event;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS:

SECTION 1. Pursuant to K.S.A. 2011 SUPP. 41-719, as amended, the Governing Body temporarily exempts Commercial Street in the 800 and southern-900 blocks, with the exact location to be approved by the Chief of Police, from the prohibition on the sale and consumption of cereal malt beverage (CMB) and alcoholic liquor when it is being sold or consumed in conjunction with the PDGA World Block Party event on August 12, 2016, between the hours of 3:00 p.m. to 12:00 midnight, as authorized by the city manager and subject to any other laws or ordinances regulating the possession, sale and/or consumption of CMB and alcoholic liquor.

SECTION 2. Sale and consumption shall be allowed within an area delineated in a manner approved by the Chief of Police or his designee, which clearly distinguishes the area where alcoholic beverages are permitted both inside the Granada Theater and outside on Commercial Street. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor or CMB from inside the boundaries of the special event as delineated by signs, posted map or other means which reasonably identify the boundaries of the special event.

SECTION 4. Licensees must meet all the requirements for obtaining a temporary license for sale of alcoholic beverages by the city and the state.

SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 7b

SUBJECT: Ordinance to Request Beer Garden for Lunar Kanza Event.

RECOMMENDATION: Mayor Sign Ordinance

BACKGROUND SUMMARY:

Mulready's Pub is requesting a temporary exemption from the prohibition of the sale and consumption of alcoholic beverages for the Lunar Kanza event to be held on July 16, 2016. The requested exemption would include 8th Avenue between Merchant Street and Commercial Street, from 4:00 p.m. to 2:00 a.m. on that date.

The proposed ordinance includes requirements that all alcoholic beverages remain within clearly identified boundaries to be approved by the Chief of Police, that no one under the age of 21 may possess or consume alcohol, and that the Mulready's Pub must meet all city and state requirements for temporary alcohol sale licensing.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE EXEMPTING COMMERCIAL STREET INCLUDING 8TH AVENUE BETWEEN MERCHANT STREET AND COMMERCIAL STREET IN THE CITY OF EMPORIA FROM THE PROHIBITION ON THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES FOR THE LUNAR KANZA BLOCK PARTY EVENT JULY 16, 2016.

WHEREAS, sponsors of the Lunar Kanza Block Party event and Mulready's Pub have requested an exemption from the prohibition of sale and consumption of cereal malt beverages (CMB) and/or alcoholic liquor on 8th Avenue between Merchant Street and Commercial Street in connection with the Lunar Kanza Block Party event;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS:

SECTION 1. Pursuant to K.S.A. 2011 SUPP. 41-719, as amended, the Governing Body temporarily exempts 8th Avenue between Merchant Street and Commercial Street, with the exact location to be approved by the Chief of Police, from the prohibition on the sale and consumption of cereal malt beverage (CMB) and alcoholic liquor when it is being sold or consumed in conjunction with the Lunar Kanza Block Party event on July 16, 2016, between the hours of 4:00 p.m. to 2:00 a.m., as authorized by the city manager and subject to any other laws or ordinances regulating the possession, sale and/or consumption of CMB and alcoholic liquor.

SECTION 2. Sale and consumption shall be allowed within an area delineated in a manner approved by the Chief of Police or his designee, which clearly distinguishes the area where alcoholic beverages are permitted both inside Mulready's Pub and outside on 8th Avenue. No one under the age of 21 shall possess or consume alcoholic beverages and event sponsors shall be held strictly accountable for any violations. No alcoholic beverages shall be consumed in vehicles while on the street at any special event.

SECTION 3. No person shall remove any alcoholic liquor or CMB from inside the boundaries of the special event as delineated by signs, posted map or other means which reasonably identify the boundaries of the special event.

SECTION 4. Licensees must meet all the requirements for obtaining a temporary license for sale of alcoholic beverages by the city and the state.

SECTION 5. This ordinance shall become effective upon publication in the official city newspaper.

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 8

SUBJECT: Ordinance Legislative Updates on Misdemeanor Offenses.

RECOMMENDATION: Mayor Sign Ordinances

BACKGROUND SUMMARY:

There have been legislative updates regarding the definitions and penalties for marijuana charges and theft charges that go into effect July 1, 2016. Staff is proposing ordinance updates to bring city code into conformity with state law.

Attached are the Updated Ordinances for the Mayor's signature.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO UNLAWFUL DEPRIVATION OF PROPERTY; AMENDING SECTION 16-115 UNLAWFUL DEPRIVATION OF PROPERTY.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 16-115 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

“Sec. 16-115. Unlawful Deprivation Of Property:

(a) Unlawful deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of the temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of his property.

(b) Unlawful deprivation of property is a class A nonperson misdemeanor. Upon a second or subsequent conviction of this paragraph, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100.

(c) The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

(d) Nothing herein shall prohibit the removal in a lawful manner, by towing or otherwise, of personal property unlawfully placed or left upon real property.”

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO THEFT;
AMENDING SECTION 16-111 THEFT, GENERALLY.**

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 16-111 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

“Sec. 16-111. Theft Generally:

(a) Theft is any of the following acts done with intent to deprive the owner permanently of the possession, use or benefit of the owner's property:

- (1) Obtaining or exerting unauthorized control over property; or
- (2) Obtaining by deception control over property; or
- (3) Obtaining by threat control over property; or
- (4) Obtaining control over stolen property knowing the property to have been stolen by another; or
- (5) Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.

(b) This section shall not apply to the theft of property of the value one thousand five hundred dollars (\$1,500) or more.

(c) Nothing herein shall prohibit the removal in a lawful manner, by towing or otherwise, of personal property unlawfully placed or left upon real property.

(d) Theft is a class A misdemeanor.”

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO THEFT OF SERVICES; AMENDING SECTION 16-114 THEFT OF SERVICES.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 16-114 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

“Sec. 16-114. Theft Of Services:

(a)"Theft of services" is obtaining services from another by deception, threat, coercion, stealth, tampering or use of false token or device.

(b)"Services" within the meaning of this section includes, but is not limited to, labor, professional service, cable television service, public or municipal utility or transportation service, telephone service, entertainment and the supplying of equipment for use.

(c)"Tampering" within the meaning of this section includes, but is not limited to:

(1) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(2) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, telephone service, or cable television service;

(3) Preventing any such meters from properly measuring or registering;

(4) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(5) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

(d)In any prosecution under this section, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, telephone service or cable television service specified in subsection (c) of this section shall be prima facie evidence of intent to violate the provisions of this section by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, telephone service or cable television service which has not been authorized or measured.

(e)This section shall not apply to theft of services of the value of one thousand five hundred dollars (\$1,500) or more.

(f)Theft of services is a class A misdemeanor.”

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO MARIJUANA AND DRUG PARAPHERNALIA; AMENDING SECTION 16-384 POSSESSION OF MARIJUANA, POSSESSION OF DRUG PARAPHERNALIA.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 16-384 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

“Sec. 16-384. Possession Of Marijuana, Possession Of Drug Paraphernalia:

(a) "Possession of marijuana" is the knowing possession or control marijuana, as designated in the uniform controlled substances act, K.S.A. 65-4105(d), as amended.

(b) "Possession of drug paraphernalia" is the knowing possession or control of drug paraphernalia. "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the state uniform controlled substances act. In determining whether an object is drug paraphernalia, in addition to all other logically relevant factors, the court shall consider the factors set forth KSA 21-5711 and amendments thereto.

(c) Any person who violates subsection (a) of this section within the corporate limits of the city shall be guilty of (1) a class B nonperson misdemeanor on a first conviction, or (2) a class A nonperson misdemeanor if such person has a prior conviction for possession of marijuana.

(d) Any person who violates subsection (b) of this section within the corporate limits of the city shall be guilty of class A nonperson misdemeanor.”

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS PERTAINING TO EVIDENCE OF INTENT TO DEPRIVE; AMENDING SECTION 16-112 PRIMA FACIE EVIDENCE OF INTENT TO PERMANENTLY DEPRIVE OWNER OR LESSOR OF POSSESSION, USE OR BENEFIT OF PROPERTY.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 16-112 of the Code of the City of Emporia, Kansas, is hereby amended as follows:

“Sec. 16-112. Prima Facie Evidence Of Intent To Permanently Deprive Owner Or Lessor Of Possession, Use Or Benefit Of Property:

(a) In any prosecution under this article, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of obtaining control over the property; or

(2) The failure of a person who leases or rents personal property to return the same within ten (10) days after the date set forth in the lease or rental agreement for the return of said property, if notice is given to the person renting or leasing said property to return said property within seven (7) days after receipt of said notice, in which case the subsequent return of said property within the seven (7) day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) Destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) Destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

(5) The failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) The word "notice" as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given two (2) days following deposit of said notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented said personal property as it appears in the information supplied by him at the time of such leasing or renting, or his last known address.

(c) It shall be prima facie evidence of intent to deprive a merchant permanently of the merchant's property held for retail sale if any one or more of the following acts is committed by a person without the consent of the merchant:

- (1) Removing any merchandise from the premises of the merchant's establishment;
- (2) Concealing any merchandise with intent to leave the premises with the merchandise;
- (3) Substituting, altering, removing or disfiguring any label or price tag;
- (4) Transferring any merchandise from a package in which that merchandise is displayed or packaged to any other container;
- (5) Disarming any alarm tag attached to any merchandise; or
- (6) Removing any magnetic tag or other security device from any merchandise.”

PASSED AND APPROVED this 6th day of July, 2016.

Robert F. Gilligan, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 9

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

Tentative Agenda for July 13th Study Session

- Discuss CAFR
- Review Personnel Funds
- Land Bank Creation

Joint City/County Luncheon City Hosts

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____

AGENDA ITEM SUMMARY

MEETING DATE: July 6, 2016

ITEM NUMBER: 10

SUBJECT: City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY:

This is a time for the City Commissioners to make comments and reports to the Public.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ HARMON _____ MLYNAR _____